

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

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|------------------------------|---|-------------------------------|
| FREDERICK JACKSON, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No. 5:20-cv-1924-LCB-GMB |
| |) | |
| PREM GULATI, <i>et al.</i> , |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM OPINION

The Magistrate Judge entered a report on October 26, 2022, recommending that the court treat the defendants’ special reports as motions for summary judgment and that the court grant the motions. (Doc. 24). Plaintiff Frederick Jackson filed an objection to the report and recommendation on December 1, 2022. (Doc. 27).

The Magistrate Judge recommended the dismissal with prejudice of Jackson’s deliberate indifference claim regarding his serious medical needs against Dr. Gulati. (Doc. 24 at 7–11, 14). Jackson argues that Dr. Gulati delayed surgery on his ankle, causing him to be permanently disabled and confined to a wheelchair for the rest of his life. (Doc. 27 at 6). To his objection, Jackson attaches an Alabama Department of Corrections’ document dated July 13, 2022, which indicates that his limitations include a “wheelchair profile until cleared by orthopedic surgeon.” (Doc. 27 at 8).

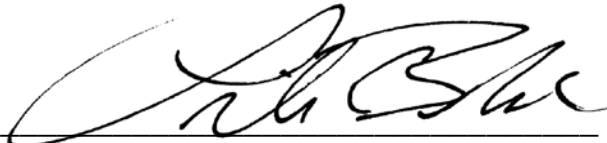
He also filed a report related to an ankle surgery dated July 10, 2020. (Doc. 27 at 9–10).

However, as noted by the Magistrate Judge in the report and recommendation, there is no evidence in the medical record that Jackson was ever scheduled to have emergency surgery. (Doc. 24 at 10). Dr. Gulati did order for Jackson to be transported to the Crestwood Medical Center emergency room on June 21, 2020, but Dr. Owen, an orthopedic surgeon at Crestwood, approved Jackson’s discharge from the hospital without emergency surgery and with a follow-up appointment. (Doc. 10 at 9, 14; Doc. 16-2 at 3, 7, 17–18, 21, 24). And when Jackson visited the SportsMed facility on July 7, 2020, the medical records do not support his claim that his surgery was cancelled; instead, the records show that Dr. Ludwig, who eventually performed Jackson’s ankle surgery, told Jackson that his ankle was too swollen for surgery. (Doc. 10 at 9, 14; Doc. 16-2 at 28–29). Based on this evidence, the court agrees with the Magistrate Judge that Jackson has not produced any evidence that Dr. Gulati was responsible for any delay in his ankle surgery. (*See* Doc. 24 at 11). Accordingly, Jackson’s objections are **OVERRULED**.

After careful consideration of the record in this case and the Magistrate Judge’s report, the court **ADOPTS** the report and **ACCEPTS** the recommendation. Consistent with that recommendation, the court finds that the defendants’ motions

for summary judgment (Docs. 16 & 19) are due to be **GRANTED**. A final judgment will be entered.

DONE and **ORDERED** January 25, 2023.



LILES C. BURKE
UNITED STATES DISTRICT JUDGE